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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 19 and 109

Notification of Inflation Adjustments for Civil Money Penalties

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notification of Monetary Penalties 2023.

SUMMARY: This document announces changes to the Office of the Comptroller of the Currency's (OCC) maximum civil money penalties as adjusted for inflation. The inflation adjustments are required to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: The adjusted maximum amount of civil money penalties in this document are applicable to penalties assessed on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] for conduct occurring on or after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, Chief Counsel's Office, (202) 649-5490, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION:

This document announces changes to the maximum amount of each civil money penalty (CMP) within the OCC's jurisdiction to administer to account for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Adjustment Act),¹ as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Adjustment Act).² Under the 1990 Adjustment Act,

¹ Pub. L. 101-410, Oct. 5, 1990, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

² Pub. L. 114-74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599, codified at 28 U.S.C. 2461 note.

as amended, federal agencies must make annual adjustments to the maximum amount of each CMP they administer. The Office of Management and Budget (OMB) is required to issue guidance to federal agencies no later than December 15 of each year providing an inflation adjustment multiplier (*i.e.*, the inflation adjustment factor agencies must use) applicable to CMPs assessed in the following year. The agencies are required to publish their CMPs, adjusted pursuant to the multiplier provided by the OMB, by January 15 of the applicable year.

To the extent an agency codified a CMP amount in its regulations, the agency would need to update that amount by regulation. However, if an agency codified a formula for making the CMP adjustments, then subsequent adjustments can be made solely by notice.³ In 2018, the OCC published a final regulation that removed the CMP amounts from its regulations while updating the CMP amounts for inflation through the notice process.⁴

On December 15, 2022, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which included the relevant inflation multiplier.⁵ The OCC has applied that multiplier to the maximum CMPs allowable in 2022 for national banks and Federal savings associations as listed in the 2022 CMP notice⁶ to calculate the maximum amount of CMPs that may be assessed by the OCC in 2023.⁷ There were no new statutory CMPs administered by the OCC during 2022.

³ See OMB Memorandum M-18-03, Implementation of the 2018 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 4, which permits agencies that have codified the formula to adjust CMPs for inflation to update the penalties through a notice rather than a regulation.

⁴ 83 FR 1517 (Jan. 12, 2018) (final rule); 83 FR 1657 (Jan. 12, 2018) (2018 CMP Notice).

⁵ The inflation adjustment multiplier for 2023 is 1.07745. See OMB Memorandum M-23-05, Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2022).

⁶ See 87 FR 1657 (Jan. 12, 2022).

⁷ Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the maximum amounts set forth in the OCC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

The following charts provide the inflation-adjusted CMPs for use beginning on [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], pursuant to 12 CFR 19.240(b) and 109.103(c)(2) for conduct occurring on or after November 2, 2015:

Penalties Applicable to National Banks

<u>U.S. Code Citation</u>	<u>Description and Tier (if applicable)</u>	<u>Maximum Penalty Amount (in Dollars)¹</u>
12 U.S.C. 93(b)	Violation of Various Provisions of the National Bank Act: Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
12 U.S.C. 164	Violation of Reporting Requirements: Tier 1 Tier 2 Tier 3	4,745 47,454 2,372,677 ²
12 U.S.C. 481	Refusal of Affiliate to Cooperate in Examination	11,864
12 U.S.C. 504	Violation of Various Provisions of the Federal Reserve Act: Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act: Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
12 U.S.C. 1818(i)(2) ³	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty: Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	390,271

¹ The maximum penalty amount is per day, unless otherwise indicated.

² The maximum penalty amount for a national bank is the lesser of this amount or 1 percent of total assets.

³ These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1693o, 1681s, 1691c, and 1692l.

<u>U.S. Code Citation</u>	Description and Tier (if applicable)	Maximum Penalty Amount (<u>in Dollars</u>) ¹
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instrument for Transfers to Third Parties: Per violation	3,446
12 U.S.C. 1884	Violation of the Bank Protection Act	345
12 U.S.C. 1972(2)(F)	Violation of Anti-Tying Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty: Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
12 U.S.C. 3110(a)	Violation of Various Provisions of the International Banking Act (Federal Branches and Agencies):	54,224
12 U.S.C. 3110(c)	Violation of Reporting Requirements of the International Banking Act (Federal Branches and Agencies): Tier 1 Tier 2 Tier 3	4,339 43,377 2,168,915 ²
12 U.S.C. 3909(d)(1)	Violation of International Lending Supervision Act	2,951
15 U.S.C. 78u-2(b)	Violation of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: Tier 1 (natural person) – Per violation Tier 1 (other person) – Per violation Tier 2 (natural person) – Per violation Tier 2 (other person) – Per violation Tier 3 (natural person) – Per violation Tier 3 (other person) – Per violation	11,162 111,614 111,614 558,071 223,229 1,116,140
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation Subsequent violations	13,627 27,252
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,577

Penalties Applicable to Federal Savings Associations

<u>U.S. Code Citation</u>	<u>CMP Description</u>	<u>Maximum Penalty Amount (in Dollars)⁸</u>
12 U.S.C. 1464(v)	Reports of Condition: 1 st Tier 2 nd Tier 3 rd Tier	4,745 47,454 2,372,677 ²
12 U.S.C. 1467(d)	Refusal of Affiliate to Cooperate in Examination	11,864
12 U.S.C. 1467a(r)	Late/Inaccurate Reports: 1 st Tier 2 nd Tier 3 rd Tier	4,745 47,454 2,372,677 ²
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act: Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
12 U.S.C. 1818(i)(2) ³	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	390,271
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instruments for Transfers to Third Parties: Per violation	3,132
12 U.S.C. 1884	Violation of the Bank Protection Act	345
12 U.S.C. 1972(2)(F)	Violation of Provisions regarding Correspondent	

⁸ The maximum penalty amount is per day, unless otherwise indicated.

² The maximum penalty amount for a federal savings association is the lesser of this amount or 1 percent of total assets.

³ These amounts also apply to statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1681s, 1691c, and 1692l.

<u>U.S. Code Citation</u>	<u>CMP Description</u>	<u>Maximum Penalty Amount (in Dollars)⁸</u>
	Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty: Tier 1 Tier 2 Tier 3	11,864 59,316 2,372,677 ²
15 U.S.C. 78u-2(b)	Violations of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: 1 st Tier (natural person) – Per violation 1 st Tier (other person) – Per violation 2 nd Tier (natural person) – Per violation 2 nd Tier (other person) – Per violation 3 rd Tier (natural person) – Per violation 3 rd Tier (other person) – Per violation	11,162 111,614 111,614 558,071 223,229 1,116,140
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation Subsequent violations	13,627 27,252
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,577

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